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Absent: Michael Etheridge

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41 **Comments from the Public.**

42  
43 None - No public was present for this meeting.

44  
45 **Old Business**

46  
47 None

48  
49 **New Business**

50  
51 ***Ordinance No. 2009-03-01, Amending Camden County Code of Ordinances, (specifically***  
52 ***amending chapters 10 and 90)***

53  
54 Dan Porter described the background of this issue and introduced Aaron Maupin, Code  
55 Enforcement Officer for Camden County. (Aaron is also a Building Code Enforcement  
56 Officer, but has recently been assigned to Code Enforcement). Aaron reads the zoning laws  
57 like he reads the building code, so he has pointed out a number of things in trying to enforce  
58 the zoning laws. Staff took a couple of issues to the Board of Commissioners and they asked  
59 the County Attorney to look into these matters. The issue we brought to the Commission  
60 really had to do with 'what is a violation of the junk car ordinance?'. What the County  
61 Attorney brought back to staff were a couple of changes related to the junk car ordinance, but  
62 not necessarily any particular comments on what constitutes a violation. So when staff  
63 brought that to the commission, they referred it back to the Planning Board. The chapter of  
64 the code of ordinances that deals with junk cars (Chapter 90) is a separate chapter from the  
65 land use ordinances (Chapter 151). Staff provided to the Planning Board copies of the  
66 changes as recommended by the County Attorney.

67  
68 One of these changes is actually in chapter 10 of the Camden County Code of Ordinances,  
69 which deals with general penalties. The change for chapter 10 is to recommend the addition  
70 of civil penalties, based on visible available evidence. With civil penalties, you can fine  
71 people who are in violation of an ordinance. This is better than having to take them to court  
72 for criminal violations of ordinances, because with criminal court you have to prove beyond  
73 a reasonable doubt that they are in violation... with a civil penalty, you can use the visible  
74 available evidence to prove violations exist, and the person doesn't get a criminal record nor  
75 have to pay any attorney's fees. With civil penalties, you can fine people and continue to fine  
76 them until their fines get high enough to take them to civil court (this is if they refuse to pay  
77 their fines). At which point, you would have to pay attorney's fees, so you would want to  
78 wait until their fines are high enough to cover attorney's fees. If they don't pay their civil  
79 fines after being taken to civil court (and presumably being found guilty or at fault), then  
80 they are in contempt of court, which gets back into the criminal issue. So there is a little bit  
81 more flexibility with civil penalties and fines.

82  
83 One of the recommendations the County Attorney suggested was to add a section in Chapter  
84 10, Rules of Construction; General Penalty, paragraph B... "Any act constituting a violation  
85 of the provisions within this code of ordinances or a failure to comply with any of its  
86 requirements shall also subject the offender to a civil penalty...".

87 Calvin Leary asked the question what does this ordinance have to do with the Planning  
88 Board. Dan Porter answered saying that it has to do with the Planning Department, who is  
89 responsible for implementing (Zoning) Code Enforcement. Also, if you have 2 or more  
90 unregistered cars on your property, your property is considered a junk yard per our current  
91 ordinances, and that is a land use violation.

92  
93 Dan went on to say that in the NC General Statutes, the criminal penalty says you can fine  
94 \$50.00 per day or imprisonment for 30 days unless your local code says you can fine a higher  
95 amount, and then you can fine up to \$500.00 per day. The reason you might want to do that  
96 is so that a person who has 1 violation would be fined \$50.00, whereas a person who has 20  
97 violations on their property (or a history of violations), you might want to fine them a little  
98 bit more. That is under the criminal penalties.

99  
100 Civil penalties would be per day per occurrence, and every day is an occurrence, every  
101 violation is an occurrence. There is no monetary cap on civil penalties.

102  
103 When the Code Enforcement Officer sends out a code enforcement letter, the violator is  
104 given a specific amount of time to bring their property into compliance. If they do not  
105 comply within that time frame, then every day after that is subject to daily fines. Of course  
106 to continue to fine them on a daily basis as you would since every day is considered an  
107 occurrence, the Code Enforcement Officer must check the property daily to see that the  
108 violation still exists.

109  
110 Terri Griffin asked hypothetically if a person fails to comply with removing a junked vehicle,  
111 and the penalties keep accruing, at what point should the county seek to have the fines paid  
112 or seek removal of the vehicle [abate the situation]? Dan Porter answered saying that the  
113 county has the ability to abate the situation, to go in and tow the vehicle off the violators  
114 property. The county would then incur the expense at that point, and there are some trespass  
115 issues the Planning Department is trying to get clarification on. The county can tow the car,  
116 store it for 30 days, then sell it for junk or at auction depending on its value, in order to cover  
117 the costs incurred and the fines.

118  
119 As stated before, the county must make sure the violation continues to exist prior to adding  
120 daily fines. The county can then take the violator to court once the fines reach a sufficiently  
121 high monetary amount (high enough to cover court costs, etc.). If the violator fails to pay the  
122 fines after being found guilty in court, then they are in contempt of court, and it becomes a  
123 legal matter for the legal system to handle.

124 Chairman Rodney Needham asked if there would be any form of citation which will tell the  
125 violator how many days they have to comply with the ordinance. Aaron Maupin, Code  
126 Enforcement Officer for the county explained the process. He will ride by a property  
127 wherein an alleged violation exists, look for the vehicle(s) in violation, check to see if they  
128 meet any of the criteria that apply to the definition of a junked motor vehicle, cite the  
129 violation if they meet a couple of the criteria, and then send them a letter asking them to  
130 abate the property within 10 days as per the Camden County Code of Ordinances. If they fail  
131 to abate the property, the county can have the property abated upon the permission of the  
132 owner of the property, but we cannot go on the property without their permission. Before the  
133 letter is even sent, the Code Enforcement Officer generally looks up the property owner and  
134 gives them a phone call to let them know that we are looking at their property and that they  
135 are in violation and informs them of the intent of the county regarding their violation.

136  
137 Vice Chairman Terri Griffin asked "What if you can't establish ownership? If there is no  
138 license, you can't really tell..." Aaron Maupin responded to this saying that he has a contact  
139 in the Theft and Bureau of Investigations at the DMV. They say that if we cannot identify it  
140 that we can call them and they can check the Vehicle Identification Number through the  
141 manufacturer. If it comes back as unidentifiable from the DMV, it's probably stolen.

142  
143 Ms. Griffin further asked if fees and penalties can be attached to the real estate taxes. Dan  
144 Porter answered this saying that it could not. If we cite them under the criminal penalties and  
145 they fail to pay their criminal penalties, we can take them to court and at that point, if the  
146 judge finds them in violation, we may be able to attach it to their property. Mr. Porter  
147 indicated an amount of uncertainty in the answer to this question. He continued saying that  
148 what can be attached is if the county abates the situation-i.e. we send them a bill and if they  
149 don't pay- then the fees for abatement can be attached to their property.

150  
151 Ms. Griffin had a concern regarding the amount of punitive actions. She indicated a desire to  
152 refrain from being overly punitive. Dave Parks responded saying that the letter that is sent to  
153 persons in violation says that they have 10 days to comply, this really means that they have  
154 10 days to contact the Code Enforcement Officer. If they need an extension of time to  
155 comply, and they have a good reason, an extension may be granted.

156  
157 Dan Porter described this ordinance change (chapter 10, section 10.99) as a tool that is  
158 somewhere between abatement, self-abatement, and criminal penalties to use to assist in the  
159 enforcement of the law. We don't have to wait until the fees and penalties accrue to a point  
160 where we can take them to court, we can go to the magistrate for assistance. The problem  
161 with this is that if the violator is not going to comply, he probably won't comply with the  
162 magistrate, and will end up in civil court anyway.

163  
164 Dan Porter then referred to Chapter 90 Section 90.05, and described the section titled  
165 "Exceptions". The county attorney recommended replacing the phrase "reasonable amount  
166 of time" with a specific amount of time. Also, exceptions to chapter 90, as proposed, would  
167 include military or civilian contractors stationed overseas, with proof of assignment (military  
168 orders, etc.).

169 Dan then asked Aaron Maupin to speak about the definition of Abandoned and Junked  
170 Vehicles (Chapter 90, Section 90.03). Dan stated that as the current ordinance reads,  
171 following definition number 3, it says “or”. Aaron stated that staff would like to make the  
172 ordinance so that a car that is suspected of being a junk vehicle would have to meet at least 2  
173 of the 4 criteria given in the definition of Abandoned and Junked Vehicles. Staff would like  
174 to avoid classifying a vehicle as junk if the only criteria it meets is being unregistered, hence  
175 the reasoning behind meeting 2 out of the 4 criteria, since it is possible for a homeowner to  
176 have multiple vehicles owned within their family and forget (or get behind on) the  
177 registration of one or more of their vehicles. Meeting 2 out of 4 would eliminate this type of  
178 situation, where an owner has forgotten to renew registration. This would make it easier for  
179 both citizens and staff, and clear up a lot of confusion.

180  
181 There was some discussion regarding the wording and placement of the word “or” within the  
182 definition of a junked motor vehicle. The consensus between the Board and staff was to  
183 reword the first line under “Definitions” to read “JUNKED MOTOR VEHICLES. A motor  
184 vehicle that meets at least 2 out of the 4 criteria listed below.”, and remove the “or” from list  
185 item number 3.

186  
187 Staff also pointed out a change in definition item number 3, wherein the dollar amount is  
188 raised to \$500.00 as opposed to \$100.00 as current ordinance states. This would make  
189 number 3 read to indicate that the car is more than 5 years old and appears to be worth less  
190 than \$500.00.

191  
192 Chairman Rodney Needham asked who would have the authority to grant leniency in this  
193 code of ordinance to citizens who request leniency. Dan Porter responded that the Code  
194 Enforcement Officer has the authority to make the appropriate determinations. He added that  
195 if citizens disagree with the decision(s) of the Code Enforcement Officer, then the citizens  
196 have the right to appeal to the Board of Adjustment.

197  
198 A few members of the Board spoke about some of the citizens as being ‘street-smart’ in that  
199 they will do whatever they can to keep their vehicles in their yards (hide them, locate them in  
200 areas of their property where the tags are not visible, etc.). Aaron responded to this saying  
201 that he has been discussing with the Magistrate about how to get Administrative Search  
202 Warrants for those types of situations where all that has to be proven is reasonable doubt, and  
203 then he could go onto the property with a Sheriff’s Deputy to obtain pictures / details  
204 regarding the presence of junked vehicles.

205  
206 As an aside, Chairman Rodney Needham expressed the appreciation of the Board for the  
207 work that Aaron Maupin is doing with regard to Code Enforcement. Dan Porter added that  
208 Aaron is doing a very good job and has been getting a good amount of compliance from the  
209 citizens.

At this time, Vice Chairman Terri Griffin made a motion to proceed with the ordinance changes as recommended by the Planning Department staff, with two additional changes: Change the first line under 90.03 Definitions to read “JUNKED MOTOR VEHICLES. A motor vehicle that meets at least 2 out of the 4 criteria listed below:”, and remove the word “or” from after list item number 3. John Aydllett seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydllett voting aye; none voting no; 1 absent; none not voting.

### **Information from Board and Staff**

There were a few information items from staff, they are listed below:

- Acceptance of roads from DOT (for DOT to accept and maintain roads)
- Buffering in and around developments
  - Planning Department will bring back language regarding road acceptance and buffering for March meeting of Planning Board.
- Possibility of placing a County Commissioner on the Planning Board as an Ex-Officio member of the board
- Commissioner Retreat in March – R4X is an agenda item for retreat

### **Consider Date of Next Meeting – March 18, 2009**

### **Adjournment**

At 8:05 PM, Ray Albertson made a motion to adjourn the meeting. John Aydllett seconded the motion. The motion was approved with Chairman Rodney Needham, Vice Chairman Terri Griffin, Members Fletcher Harris, Ray Albertson, Calvin Leary, and John Aydllett voting aye; none voting no; 1 absent; none not voting.

Date: \_\_\_\_\_

Approved: \_\_\_\_\_  
Chairman Rodney Needham

Attested: \_\_\_\_\_  
Amy Barnett, Planning Clerk